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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHRISTINE CLECAK,
Plaintiff,

v.

APPLE COMPUTER, INC.'S SHORT AND
LONG TERM DISABILITY PLAN,
Defendant.

Case No.:

COMPLAINT

I. JURISDICTION

1. This is a suit to enforce plaintiff's rights to declaratory, injunctive and monetary relief brought pursuant to the Employee Retirement Income Security Act of 1974 (ERISA), 29 USC 1001, et seq.

II. PARTIES

2. Plaintiff CHRISTINE CLECAK was at all times hereto a participant in APPLE COMPUTER, INC.'s SHORT AND LONG TERM DISABILITY PLAN (hereinafter referred to as PLAN), pursuant to ERISA.

1 3. LIFE INSURANCE COMPANY OF NORTH AMERICA (hereinafter referred to as
2 "LINA") is the Administrator of the PLAN.

3 4. The PLAN is an employee welfare benefit plan pursuant to ERISA section 502, 29
4 USC 1002.

5 **III. FACTS**

6 5. Plaintiff was a participant in good standing in the PLAN on July 21, 2007.

7 6. Plaintiff became disabled on or about August 8, 2005, and continued to be disabled
8 through to July 21, 2007. Her disability has, at all times since, met the definition of disability in
9 the PLAN.

10 7. On July 18, 2007, the PLAN, through the insurer, informed plaintiff that as of July 21,
11 2007, it would terminate her disability benefits under the PLAN.

12 8. Plaintiff timely appealed the termination of benefits. On March 11, 2008, the PLAN,
13 through the insurer, informed plaintiff that her appeal was denied.

14 9. Plaintiff has performed all acts necessary to maintain her status as a participant in the
15 PLAN. She timely filed all applications for benefits and appeals of the termination of benefits.
16 She provided all the necessary information to the PLAN and its representatives. Plaintiff
17 exhausted all available administrative remedies under the PLAN.

18 **IV. CLAIM FOR RELIEF**

19 10. Plaintiff hereby realleges and incorporates by reference every allegation of paragraphs
20 1 through 9 above, inclusive.

21 11. ERISA Section 502(a)(1)(B), 29 USC 1132(a)(1)(B), provides a private right of action
22 for ERISA plan participants to recover benefits due and to clarify rights to future benefits under
23 the terms of the PLAN.

24 12. As a direct and proximate consequence of defendant's failure and refusal to pay
25 benefits under the PLAN, plaintiff has been deprived of amounts to be determined and interest
26 thereon.

V. PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for:

1. A judgment and order that defendant pay the benefits due plaintiff now and in the future and interest thereon.
2. An order that defendant pay plaintiff her attorney fees and other costs.
3. Such order and further relief as the Court may deem just and proper.

Date: April 2, 2008.

Fricker & Mellen & Associates

By: _____
Karen L. Creech, Esq.

Attorneys for Plaintiff
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